

**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU**

NEPR

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IN RE

REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY
INTEGRATED RESOURCE PLAN

CASE NO.: CEPR-AP-2018-0001

SUBJECT:

Final Resolution and Order on Puerto Rico
Electric Power Authority's Integrated
Resource Plan

MOTION FOR RECONSIDERATION

TO THE HONORABLE BUREAU:

COMES NOW, V-Financial LLC ("VF") and EIF PR Resource Recovery LLC ("EIF PR") (hereinafter referred to collectively as "VF"), through its undersigned counsel, and very respectfully states, alleges and requests:

1. On August 24, 2020, the Puerto Rico Energy Bureau ("PREB") issued the Final Resolution and Order on the Puerto Rico Electric Power Authority's ("PREPA's") Integrated Resource Plan ("IRP Resolution").

2. Pursuant to Section 11.01 of the PREB's Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings (Regulation No. 8543) and Section 3.15 of the Uniform Administrative Procedures Act of the Government of Puerto Rico, Act No. 38 of June 30, 2017, as amended, ("UAPA"), VF hereby submits a request for reconsideration of the IRP Resolution based on the arguments presented herein.

3. VF is the collateral agent for EIF PR, the lender of a waste-to-energy project proposed for Puerto Rico in the municipality of Arecibo ("WTE Project"), which was developed with a power purchase agreement with PREPA. The lender now has an interest in the WTE Project assets and VF, as collateral agent, is authorized to submit this Motion for Reconsideration on behalf of the lender.

4. As required under Section 3.4(2) of the UAPA for any petition, VF hereby provides the following information:

- a. Its postal address is P.O. Box 13303, San Juan, PR 00908.
- b. Its electronic mail address is *frankvasquez@v-financial.com*.

- c. The petition filed in this Motion for Reconsideration is based on the fact that the WTE Project was not included in the IRP Resolution.
- d. This petition is based on Regulation 8543, the UAPA, the PR Energy Transformation and RELIEF Act, Law No. 57 of 2014 (“Energy Act”), the Puerto Rico Energy Diversification Policy through Sustainable and Alternative Renewable Energy Act, Law No. 82 of 2010 (“Energy Diversification Act”), the Puerto Rico Green Energy Incentives Act, Law No. 83 of 2010 (“Green Incentives Act”), as amended, the Puerto Rico Electric Power System Transformation Act (“System Transformation Act”) Law No. 120 of 2018, as amended, the Puerto Rico Energy Public Policy Act, Law 17 of 2019, the Puerto Rico Environmental Public Policy Act, Law No. 416 of 2004, (“Environmental Statute”), as amended, the PR Municipal Code, Law No. 107 of 2020 (“Municipal Code”), in addition to other federal and state laws and regulations that govern the management and disposal of non-hazardous solid wastes and the generation of energy in Puerto Rico.
- e. This petition is for the inclusion of the WTE Project in PREPA’s Integrated Resource Plan (“IRP”) and Modified Action Plan, as part of the power generation alternatives for the future of Puerto Rico.

5. The WTE Project is based on state-of-the-art facilities that incorporate and utilize the Best Available Control Technology (“BACT”) as defined by the U.S. Environmental Protection Agency (“EPA”) for the recovery of energy from non-hazardous solid wastes, thereby reducing the dependency on fossil fuels by using the calorific content of wastes as fuel for the generation of electricity, in addition to reducing the emissions of atmospheric contaminants, including Criteria Air Pollutants, Hazardous Air Pollutants (“HAPs”) and Green House Gases (“GHGs”) that are currently being emitted to the atmosphere from the use of fossil-derived fuels in other facilities to generate electricity.¹ The use of waste as fuel provides a diversification in fuel reliance for Puerto Rico and decreases its dependency on fossil-derived fuels.

6. The WTE Project had been identified in the PREPA’s prior IRP and is entirely consistent with the aforementioned laws and regulations, particularly Puerto Rico’s renewable and diversification energy objectives, environmental protection goals, base load energy needs, among other public policy declarations, and should be specifically included in the IRP to protect the environment, plus the health and well-being of the residents of Puerto Rico.

7. VF and the lender have a proprietary and legitimate interest that will be negatively affected if the WTE Project is not included in the IRP and the Modified Work Plan, as this will negate the value of the lender’s interest in the assets of the WTE Project. If the WTE Project is not included in the IRP and the Modified Work Plan, there will be concrete,

¹ Represents a major annual GHG reduction of over 1.1 million tons per year of CO₂ equivalent emissions.

discernible, tangible and particular injury (“injury in fact”) not a conjectural or hypothetical one to a legally protected interest.

8. VF is a “Party” as this term defined in Section 1.3(k) of the UAPA.

The Beneficial Environmental Impacts from VF’s WTE Project

9. Since the decade of the 1990’s, the Government of Puerto Rico identified the disposal of household waste in the northern corridor of the island (Trujillo Alto to Aguada) as a serious challenge that required immediate attention. This determination included consideration of the waste disposal options that were in compliance with applicable environmental laws and regulations (State/Federal), and at a reasonable cost.²

10. One of the options considered for the northern and the western regions of Puerto Rico was to replace existing environmentally non-compliant landfills with WTE facilities in Arecibo and Aguada. A WTE project sponsored by private investors, the WTE Project, was proposed to process 2,100 tons/day of MSW at a parcel of land west of the Cambalache Sugar Mill within the Arecibo area. Support was secured from PREPA and a PPOA was awarded in addition to a number of other governmental agreements and approvals based on the need for such a waste disposal option and base-load generation for Puerto Rico. The WTE Project showed no significant non-mitigated environmental issues based on the fact that state and federal regulations required utilization of the BACT for the control and compliance of emissions resulting from the heat recovery units, as determined by the EPA and the former Puerto Rico Environmental Quality Board, now the Department of Natural and Environmental Resources. Since that time, no WTE facility has been constructed and the non-compliant landfill crisis in Puerto Rico has worsened. Thousands of tons of garbage with calorific content that could have substituted for

² Some additional consideration includes that the WTE Project provides long-term, fully compliant solid waste management capacity for more than 20% of the waste generated daily in Puerto Rico, facilitates the closure of the non-compliant landfills, eliminates the environmental impacts on the atmosphere air caused by the decomposition of organic waste into methane (CH₄) which is a potent and aggressive GHG, on the soil, surface and ground water caused by the waste leachate generation, and on the human health caused by these unlawful operations, recovers more than 200 tons per day of metals, provides resilient new **base-load power source** in the Northern Puerto Rico, where generation capacity is needed most, provides fuel diversification, provides compliant capacity helping PREPA privatize its generation and avoid EPA fines, among other benefits.

the burning of fossil-fuels have been buried and let to decompose into CH₄ which is the most potent and detrimentally aggressive GHG.³

11. Recently released findings of a Landfill Capacity Study commissioned by the EPA after Hurricanes Irma and María struck Puerto Rico show that existing landfill capacity island-wide, including the region from Trujillo Alto to Aguada, was reduced by an average of two years. There are no compliant landfills in this region, except for one disposal site constructed at the Vega Baja landfill, and the non-compliant landfills in this region are located in the karst area, which is supposed to be protected under the Environmental Public Policy Act, and/or above groundwater resources, both of which are being negatively impacted by the operation of these landfills. This operation of non-compliant landfills is against the law and has been perpetuated because of the lack of alternative waste handling, processing and disposal alternatives, like the WTE Project.^{4,5}

12. With landfills rapidly filling to capacity, the new Municipal Code has approved a comprehensive approach to responsibly and effectively address the solid waste crisis by adopting EPA's policy of waste reduction, recycling and energy recovery to reduce the amount of waste that has to be landfilled. The WTE Project introduces a Materials Separation Plan (MSP) as part of its EPA permit requirements, together with a community outreach program geared to achieve the public policy goal of 35% reduction and recycling, plus an 80% volume reduction of the waste that has to be landfilled and is consistent with the goal established in Law No. 70 of 1992. Thus, the WTE Project will advance waste reduction through recycling.

13. From the environmental and health points of view, the IRP and Modified Work Plan should be revised to include Refuse Derived Fuel WTE technology⁶, to be among the

³ This translates into millions of dollars that have been spent on purchasing high-emitting fossil-fuels while the energy-rich waste has been buried into the ground.

⁴ The Study showed available capacity in some landfills in this region to be less than four years, with the average remaining landfill capacity less to be than that. It was this type of expected loss of landfill capacity, together with the serious environmental consequences of using non-compliant landfills, including impacts to underground water aquifers, surface waters and creeks, and nearby Natural Reserves, that in fact forced SWMA in 1999 to consider the construction of WTE facilities.

⁵ VF asks that the PREB take official knowledge of these published studies and plans, which are all in the public domain, for all legal purposes.

⁶ "Refuse Derived Fuel systems use mechanical methods to shred incoming MSW, separate out non-combustible materials, and produce a combustible mixture that is suitable as a fuel in a

technologies capable of producing base-load power for PREPA, at competitive price; lower than PREPA's existing power generation costs.

14. Pursuant to PREB's Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority (Regulation No. 9021), which outlines that requirements for the Preferred Resource Plan in Section 2.02(H)(2)(d)(ii), the selection criteria includes environmental impacts and specifies that if associated with quantifiable costs, these shall be included in the calculation of the present value of revenue calculation. As part of said Plan, PREPA is to select a Preferred Resource Plan from among the Resource Plans developed and evaluated in the optimization and sensitivity analysis. In selecting the Preferred Resource Plan, PREPA is to use the minimization of the present value of revenue requirements as the primary selection criteria.

15. In addition to the environmental benefits, PREPA must also consider other criteria including, but not limited to, system reliability; short and long-term risk; transmission needs and implications; distribution needs and implications; financial impacts on PREPA; and the public interest as set forth in the Energy Act. Where meeting the needs is associated with quantifiable costs, these costs are to be included in the calculation of the present value of revenue requirements. The IRP is to include a detailed discussion of each of the above factors in support of its Preferred Resource Plan. Moreover, PREPA may opt to choose a plan that is not the lowest cost, provided that, in doing so, it presents a detailed description of all the criteria and reasoning used to select the Preferred Resource Plan that is not the lowest cost.

16. The "Siemens PTI Report Number: RPT-015-19, Puerto Rico Integrated Resource Plan 2018-2019, Draft for the Review of the Puerto Rico Energy Bureau," pages 4 to 16, suggests the need for the WTE Project. It indicates that PREPA's Draft IRP did not include discussion of the related environment (See Section 4.3, page 4-17 of IRP Resolution), health, safety, economic, and contractual considerations. The omission of the WTE Project and the associated PPOA from the IRP is clearly not in the public interest and apparently did not take into consideration that such project was included in the Solid Waste Management Plan, and that in the past it was accepted by PREPA on two different occasions.

dedicated furnace or as a supplemental fuel in a conventional boiler system." See <https://www.epa.gov/smm/energy-recovery-combustion-municipal-solid-waste-msw>

17. Finally, the WTE Project also was submitted for designation as a critical project by the FOMB due to its energy and environmental benefits.⁷

WHEREFORE, the undersigned respectfully requests from this Honorable Bureau to reconsider the IRP Resolution and accept this motion to insert the WTE Project into the IRP and its Modified Action Plan following the proper procedures.

RESPECTFULLY SUBMITTED.

In San Juan, PR this 11th day of September 2020.

CERTIFICATE OF SERVICE

We hereby state and certify that on the same date that this document was filed, a copy of it was delivered by electronic mail to provide notification to:

astrid.rodriguez@prepa.com; jorge.ruiz@prepa.com; n-vazquez@aeep.com;
c-aquino@prepa.com; mvazquez@diazvaz.law; axel.colon@aes.com; kbolanos@diazvaz.law;
acarbo@edf.org; javier.ruajovet@sunrun.com; mgrpcorp@gmail.com; pedrosaade5@gmail.com;
rmurthy@earthjustice.org; carlos.reyes@ecoelectrica.com; ccf@tcmrslaw.com;
victorluisgonzalez@yahoo.com; hriviera@oipc.pr.gov; jriviera@cnspr.com;
manuelgabrielfernandez@gmail.com; acasellas@amgprlaw.com; corey.brady@weil.com;
paul.demoudt@shell.com; escott@ferraiuoli.com; sproctor@huntonak.com;
agraitfe@agraitlawpr.com; cfl@mcvpr.com; sierra@arctas.com; tonytorres2366@gmail.com;
apagan@mpmlawpr.com; info@liga.coop; amaneser2020@gmail.com; sboxerman@sidley.com;
bmundel@sidley.com; gnr@mcvpr.com; rstgo2@gmail.com; larroyo@earthjustice.org;
jluebemann@earthjustice.org; loliver@amgprlaw.com; epo@amgprlaw.com;
robert.berezin@weil.com; marcia.goldstein@weil.com; jonathan.polkes@weil.com;
gregory.silbert@weil.com; maortiz@lvprlaw.com; rnegron@dnlawpr.com;
castrodiappalaw@gmail.com; voxpopulix@gmail.com; paul demoudt@shell.com;
GiaCribbs@huntonak.com; aconer.pr@gmail.com; rtorbert@rmi.org; apagan@mpmlawpr.com;
sboxerman@sidley.com; bmundel@sidley.com

We also certify that on the same date that this document was filed; a copy of it was notified by regular USPS mail to:

Puerto Rico Electric Power Authority

Attn: Nitza D. Vázquez Rodríguez
Astrid I. Rodríguez Cruz
Jorge R. Ruíz Pabón
PO Box 363928
San Juan, PR 00936-3928

Environmental Defense Fund

Attn: Agustín F. Carbó Lugo
257 Park Avenue South
New York, NY 10010

⁷ See the Critical Project Application to FOMB, which was submitted in 2017 prior to Hurricane María, and includes a summary of the benefits of the WTE Project.

Sunrun, Inc.

Attn: Javier Rúa-Jovet
Centro de Seguros Bldg. Suite 406
701 Ponce de León Ave.
San Juan, PR 00907

Local Environmental Organizations

Attn: Ruth Santiago
Apartado 518
Salinas, PR 00751

Local Environmental Organizations

Attn: Jordan Luebke
111 S. Marin Luther King Jr. Blvd.
Tallahassee, FL 32301

EcoEléctrica, L.P.

Attn: Carlos A. Reyes, P.E.
Carretera 337 Km. 3.7
Barrio Tallaboa Poniente
Peñuelas, PR 00624

Rocky Mountain Institute

Attn: Richenda Wan Leeuwen
2490 Junction Place, Suite 200
Boulder, CO 80301

Local Environmental Organizations

Attn: Pedro Saadé Lloréns
Condado 605 - Office 616
San Juan, PR 00907

Local Environmental Organizations

Attn: Raghu Murthy
48 Wall Street 19th Floor
New York, NY 10005

Local Environmental Organizations

Attn: Laura Arroyo
4500 Biscayne Blvd. Ste 201
Miami, FL 33137

Toro, Colón, Mullet, Rivera & Sifre, P.S.C.

Attn: Carlos E. Colón Franceschi
PO Box 195383
San Juan, PR 00919-5383

Grupo WindMar

Attn: Víctor L. González
#206 Calle San Francisco
San Juan, PR 00901

TORO & ARSUAGA, LLC

Attorneys for VF

PO Box 11064, San Juan, P.R. 00922-1064

Tel. (787) 299-1100 Fax (787) 793 -8593

s/Rafael A. Toro-Ramírez

RUA 9171

rtoro@toro-arsuaga.com

